is accomplished when the bribe money is delivered, if not before. See *Sulston* v. *Norton*, 3 Burr. 1235, 1237. The court's contention that, as the state's attorney was not bribed, the defendant could not have bribed him, is a play on words. Bribe-giving and bribe-taking are separate and independent crimes, though called by the same name. See *State* v. *Dudoussat*, 47 La. Ann. 977, 997, 17 So. 685, 687. That the state's attorney participated in the crime for purposes of detection is of course no defense. *People* v. *Mills*, 178 N. Y. 274, 70 N. E. 736; *Minter* v. *State*, 159 S. W. 286 (Tex.). Had he instigated the crime, some jurisdictions would have excused the wrongdoer. *O'Brien* v. *State*, 6 Tex. App. 665. *Contra*, *Grimm* v. *United States*, 156 U. S. 604. See 18 HARV. L. REV. 65. But mere participation is a defense only where it negatives an essential element of the crime. *Rex* v. *Martin*, R. & R. 196.

CRIMINAL LAW — SENTENCE — EFFECT OF COMMUTATION. — A convict had served over twenty years of a life term when the state board of pardons commuted the sentence to imprisonment for thirty years. Had this been the sentence at the outset, the convict would already have been entitled to release by reason of good behaviour. *Held*, that the convict must be discharged. *State* ex rel. *Murphy* v. *Wolfer*, 148 N. W. 896 (Minn.).

The court proceeded upon the theory that commutation substitutes one sentence for another. See *Lee* v. *Murphy*, 22 Gratt. (Va.) 789, 799; *Johnson* v. *State*, 63 So. 163 (Ala.). Accordingly, it reasoned that after commutation the status of the prisoner was necessarily the same as though the original term had been but thirty years, and so held him entitled to deductions for prior good behavior, under the statute granting this allowance to all but life convicts. MINN. GEN. STAT., 1913, § 9309. With due respect, however, it is submitted that no rigid legal rule requires that commutation invariably operate as if the lesser sentence had been first imposed. On the contrary, the intent of the pardoning power should be controlling. Thus it has been held that commutation to "nine years actual time" precluded any deduction for good behavior. See *In re Hall*, 34 Neb. 206, 51 N. W. 750. Moreover, the circumstance that if prior good time were allowed, the prisoner could claim his discharge twenty-three days after commutation, has been taken to indicate that previous good behavior was not to be considered. *In re McMahon*, 125 N. C. 38, 34 S. E. 193. This authority the principal case seeks to distinguish on the purely formal ground that the Minnesota statute states expressly that "good time" should begin on arrival in prison. But it would seem that in the present case there was all the more reason for excluding allowances for prior good behavior from the "thirty years" when the opposite construction made discharge in fact overdue at the time of commutation. A result like that of the principal case should be attained where, and only where, the commuting authority intends a complete substitution of the new sentence with its concomitant legal consequences.

DEAD BODIES — NEGLIGENT MUTILATION — RIGHT OF RECOVERY FOR MENTAL ANGUISH BY RELATIVE OTHER THAN NEXT OF KIN. — The mother of a boy killed on the defendant railroad sued the company for mental anguish caused by the negligent mutilation of the dead body. The father, who was living, was by statute the next of kin. *Held*, that the mother cannot recover. *Floyd* v. *Atlantic Coast Line Ry. Co.*, 83 S. E. 12 (N. C.).

In England the law recognizes no property right in a corpse. *Williams* v. *Williams*, 20 Ch. D. 659. In this country a dead body is not property in the absolute sense of the word. But the great weight of authority holds that a legal "*quasi*-property" right to the possession of the dead body for the purpose of burial vests first in the surviving wife or husband, and then in the next of kin. Any wilful or wanton mutilation of the body will be a violation

of this right, and will furnish ground for recovery for consequent mental anguish. *Larson* v. *Chase*, 47 Minn. 307, 50 N. W. 238; *Kyles* v. *Southern Ry. Co.*, 147 N. C. 394, 61 S. E. 278. But see *Long* v. *Chicago, R. I. & P. Ry. Co.*, 15 Okla. 512, 86 Pac. 289. There is also authority for such recovery where the injury is merely negligent. *Hale* v. *Bonner*, 82 Tex. 33, 17 S. W. 605. *Cf. Birmingham T. & T. Co.* v. *Still*, 61 So. 611 (Ala.). *Contra, Hall* v. *Jackson*, 24 Colo. App. 225, 134 Pac. 151. The limited character of the right, however, is shown by the fact that it may be defeated by the deceased's contract. *Painter* v. *U. S. Fidelity & Guaranty Co.*, 91 Atl. 158 (Md.). Even in the absence of such a limitation, however, the principal case properly denies recovery, for the legal right is vested in the next of kin, and he alone may sue for the mental anguish caused by any mutilation.

EASEMENTS — MODES OF ACQUISITION: IMPLIED GRANT — RIGHT TO WATER PUMPED BY GASOLINE ENGINE ON ADJOINING LAND. — The defendant owned a tract of land, one part of which was supplied with water from a well on another part, which was pumped by a gasoline engine there situated. The *quasi*-dominant tenement was first leased to the plaintiff, and then sold to a third party, who later conveyed to the plaintiff. Neither deed mentioned the water rights, but the pipes were visible and the use of the system necessary to the full enjoyment of the land. The defendant then cut off the water, shut up the pump-house and blocked up the way thereto. The plaintiff now seeks to enjoin him from further interference with her rights. *Held*, that she is entitled to the relief sought. *Adams* v. *Gordon*, 106 N. E. 517 (Ill.).

In order to imply the grant of an easement, it must be apparent, continuous, and reasonably necessary to the enjoyment of the premises conveyed. *Spencer* v. *Kilmer*, 151 N. Y. 390, 45 N. E. 865. The word "continuous," has been the subject of much dispute. Some have thought that it required the easement to be capable of enjoyment without the intervention of man, as, for example, a drain or light and air. See GALE, EASEMENTS, 3 ed., p. 83. On this theory, the implied grant of a right of way has been held impossible. *Bonelli Bros.* v. *Blakemore*, 66 Miss. 136. But the view now generally adopted is that the easement is continuous if the tenements are permanently adapted to its enjoyment. *Larsen* v. *Peterson*, 53 N. J. Eq. 88, 30 Atl. 1094; *Baker* v. *Rice*, 56 Oh. St. 463, 47 N. E. 653. See GALE, EASEMENTS, 8 ed., p. 137. Under this view the grant of an easement to water pumped by an hydraulic ram has been implied. *Toothe* v. *Bryce*, 50 N. J. Eq. 589, 25 Atl. 182. The doctrine of implied easements, however, should be confined to narrow limits, for it does not depend on any intention of the parties, and is also hostile to the policy of the registry system. See 1 TIFFANY, REAL PROPERTY, p. 710. The principal case extends the rule farther than any previous decision, and is therefore to be regretted. But see *Foote* v. *Yarlott*, 238 Ill. 54, 87 N. E. 62; *Eliason* v. *Grove*, 85 Md. 215.

EMINENT DOMAIN — COMPENSATION — VALIDITY OF STATUTE EXTINGUISHING RIGHT TO COMPENSATION WITHOUT NOTICE. — A statute provided that all private owners of easements in any street which a city intended to close must present their claims for compensation within six years after the filing of the map by the city. The city filed such a map in 1895 to close two streets, in which private owners had easements. In 1898 the streets were closed. In 1906 the city condemned the fee in the streets for another purpose, and the owners' right to substantial compensation depended on the question whether the easements had been extinguished. *Held*, that the easements still exist, on the ground that the statute is unconstitutional. *In the Matter of the City of New York*, 212 N. Y. 538.

An abutter's private easement in a street cannot be extinguished without compensation. *Schneider* v. *City of Detroit*, 72 Mich. 240, 40 N. W. 329. Any